

Message Text

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ORIGIN EB-03

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

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LIMDIS

E.O. 11652: N/A

TAGS:EWWT, RP

SUBJECT:MERCHANT SHIPPING: PHILIPPINE SHIPS NO LONGER
EXEMPT FROM U.S. TONNAGE TAXES

REF: MANILA 2498

1. SUMMARY. US. TREASURY DEPARTMENT PREPARING TO DELETE
1916 PROVISION EXEMPTING PHILIPPINE VESSELS FROM ALL U.S.
TONNAGE TAXES. PHILIPPINE VESSELS WILL THEN HAVE TO PAY
U.S. REGULAR TONNAGE TAX CHARGED ALL U.S. AND FOREIGN
VESSELS. USG AND GOP ACTION REQUIRED TO EXEMPT PHILIPPINE
VESSELS FROM U.S. ONE DOLLAR PER TON SPECIAL TONNAGE TAX.
END SUMMARY.

2. U.S. CODE OF FEDERAL REGULATIONS (19 CFR 4.21(B)(14))
PRESENTLY EXEMPTS PHILIPPINE VESSELS FROM ALL U.S.
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TONNAGE TAXES, INCLUDING THOSE PAID BY U.S. AND OTHER

FOREIGN VESSELS. EXEMPTION STEMS FROM AN ACT OF CONGRESS PASSED IN 1916, WHICH IN JUDGEMENT OF BOTH STATE AND TREASURY DEPARTMENTS CEASED TO APPLY WITH EXPIRATION OF LAUREL-LANGLEY AGREEMENT, JULY 3, 1974. THUS THERE REMAINS NO BASIS IN LAW TO MAINTAIN CURRENT EX-EMPTION OF PHILIPPINE SHIPPING FROM THESE TAXES.

3. ACCORDINGLY, U.S. CUSTOMS IS PREPARING TO ISSUE A TREASURY DECISION GIVING NOTICE THAT EXEMPTION FOR PHILIPPINES (LISTED UNDER 19 CFR 4.21(B)(14)) IS DISCONTINUED. (FYI ONLY. TREASURY DECISION ALREADY AT FEDERAL REGISTER AND OPEN FOR PUBLIC INSPECTION, BUT TREASURY HAS AGREED TO BRIEFLY DELAY ISSUING THIS NOTICE TO ENABLE DEPARTMENT TO FOREWARN GOP. END FYI ONLY).

4. TAXES IN QUESTION ARE: (A) A REGULAR TONNAGE TAX OF NO MORE THAN SIX CENTS PER NET REGISTERED TON, LEVIED ON ALL SHIPS, INCLUDING US VESSELS, ON EACH ENTRY INTO U.S. PORTS, BUT NOT TO EXCEED FORTY CENTS PER TON PER YEAR; AND (B) A SPECIAL TONNAGE TAX AND "LIGHT MONEY DUTY" LEVIED ONLY ON FOREIGN VESSELS, AMOUNTING TO ONE DOLLAR PER NET REGISTERED TON ON EACH ENTRY INTO U.S. PORTS.

5. VESSELS MAY BE EXEMPTED FROM PAYMENT OF SPECIAL TONNAGE TAX AND "LIGHT MONEY DUTY" (PARA 4(B) ABOVE) UNDER 46 U.S.C. 141 IF GOVERNMENT OF COUNTRY OF REGISTRY GIVES "SATISFACTORY PROOF . . . THAT NO DISCRIMINATING DUTIES OF TONNAGE OR IMPOSTS ARE IMPOSED OR LEVIED IN PORTS OF SUCH NATION UPON VESSELS WHOLLY BELONGING TO CITIZENS OF THE UNITED STATES OR UPON THE PRODUCE, MANUFACTURES, OR MERCHANDISE IMPORTED IN THE SAME FROM THE UNITED STATES OR FROM ANY FOREIGN COUNTRY", AND 19 CFR 4.22 LISTS OVER ONE HUNDRED NATIONS WHOSE VESSELS ARE CURRENTLY EXEMPTED FROM PAYING THE ONE DOLLAR PER TON SPECIAL TONNAGE TAX AND LIGHT MONEY DUTY.

6. IN THE NEAR FUTURE, TREASURY DECISION PER PARA LIMITED OFFICIAL USE

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3 ABOVE WILL BE ISSUED. IF DEPARTMENT WERE ABLE TO INFORM U.S. TREASURY ON PROVISIONAL BASIS THAT NO DISCRIMINATING PHILIPPINE TAX ON U.S. VESSELS EXISTS, U.S. TREASURY WOULD CONSIDER NOT COLLECTING SPECIAL TONNAGE TAX AND LIGHT MONEY DUTY (SEE PARA 4(B) ABOVE). LATER, AN OFFICIAL GOP ASSURANCE (VIA DIPLOMATIC NOTE) THAT NO SUCH PHILIPPINE TAX EXISTS WOULD BE NECESSARY TO INCLUDE THE PHILIPPINES

AMONG THOSE COUNTRIES LISTED IN 19 CFR 4.22 AS CURRENTLY EXEMPTED FROM PAYING SPECIAL TONNAGE TAX AND LIGHT MONEY DUTY (OF COURSE, AS WITH ALL COUNTRIES SUCH NOTE IS NECESSARY BUT NOT SUFFICIENT EVIDENCE OF NON-DISCRIMINATION, AND ANY PHILIPPINE TAXATION OF U.S. VESSELS REQUIRES EVALUATION OF ITS 19 CFR 4.22 STATUS BY THE U.S. TREASURY DEPARTMENT.).

7. ACTION REQUESTED. EMBASSY SHOULD ADVISE GOP OF SITUATION, NOTIFYING APPROPRIATE AUTHORITIES THAT IMPOSITION BY USG OF REGULAR TONNAGE TAX (PARA 4(A) ABOVE) WILL BEGIN IN NEAR FUTURE, AND SOLICITING FROM GOP DIPLOMATIC NOTE WITH LANGUAGE PARA 9 BELOW. ADDITIONALLY, EMBASSY SHOULD CABLE DEPT. ANY INFORMATION WHICH WOULD ALLOW DEPT. TO INFORM U.S. TREASURY PROVISIONALLY THAT NO DISCRIMINATING PHILIPPINE TAX ON U.S. VESSELS EXISTS (SEE PARA 6 ABOVE).

8. FYI. IN RAISING PROBLEM AT THIS TIME, USG HAS NO DESIRE TO COMPLICATE TAX TREATY OR OTHER NEGOTIATIONS. TIMING OF TREASURY ACTION IS FUNCTION OF U.S. LAW AND NORMAL ADMINISTRATIVE PROCEDURES IN PREPARATION OF FEDERAL REGISTER NOTICE. TREASURY HAS TEMPORARILY DELAYED PUBLICATION OF FEDERAL REGISTER NOTICE TO PERMIT DISCUSSION WITH GOP. HOWEVER, IN VIEW OF LEGAL SITUATION, EXTENDED DELAY WILL BE AT BEST DIFFICULT TO JUSTIFY. DEPT. AWARE OF POSSIBLE CONCERN OVER GOP 2 1/2 PERCENT TAX ON FOREIGN SHIPPING LINES BUT HOPES THIS CAN BE HANDLED AS SEPARATE ISSUE. END FYI.

9. DIPLOMATIC NOTE WHICH WOULD BE A PREREQUISITE FOR DETERMINING THAT THERE IS NO DISCRIMINATING TAX LIMITED OFFICIAL USE

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AS PER PARAS 6 AND 7 ABOVE WOULD READ AS FOLLOWS:
"... ASSURANCES THAT NO DISCRIMINATING DUTIES OF TONNAGE OR IMPOSTS ARE IMPOSED OR LEVIED IN THE PORTS OF THE REPUBLIC OF THE PHILIPPINES UPON VESSELS WHOLLY BELONGING TO CITIZENS OF THE UNITED STATES, OR UPON THE PRODUCE, MANUFACTURES, OR MERCHANDISE IMPORTED FROM THE UNITED STATES OR FROM ANY FOREIGN COUNTRY IN VESSELS OF THE UNITED STATES". KISSINGER

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